

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

CHRISTOPHER BARBOUR,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 2:01-cv-612-ECM-SRW
	)	
JEFFERSON S. DUNN, Comm’r,	)	
Dep’t of Corr.; et al.,	)	
	)	
Respondents.	)	

**JOINT STATUS REPORT**

Come now Respondents, by and through the Attorney General for the State of Alabama, and Petitioner, by and through undersigned counsel for Petitioner, and, pursuant to this Court’s March 30, 2021 order granting limited discovery, provide the following status report:

1. On July 6, 2021, the undersigned counsel for Respondents, Forensic Biology Section Chief Laura Wendell from the Alabama Department of Forensic Sciences (“ADFS”), and the designee, Ashley Adams with the Equal Justice Initiative, for Petitioner’s counsel met with Sgt. G. Schnupp at the Montgomery Police Department (“MPD”). Sgt. Schnupp produced a sealed box marked with property inventory numbers 93155, 93449, 94832. At the designee for Petitioner counsel’s request, the seal was broken, and the box opened. Though the contents were photographed by the designee for Petitioner’s counsel and undersigned, no

items inside the box were touched or removed. Sgt. Schnupp then resealed the box. The above individuals thereafter met Sgt. Schnupp at the Fedex facility, and the box was packaged for shipping. The package was delivered to FACL on July 7, 2021.

2. Petitioner's counsel notified undersigned counsel for Respondents that Mr. Keel inventoried the items and noted that several items, including the fingernail clippings and certain smear slides from the autopsy, did not appear to be contained in the package. Mr. Keel, however, has not opened all items contained within the box.

3. Undersigned counsel for Respondents has requested MPD to search again to ensure no evidence from this case was inadvertently packaged separately from that already shipped to FACL. It is the undersigned counsel for Respondents' understanding that MPD has also contacted the local district attorney's office to inquire about items Mr. Keel indicated he did not locate in the package.

4. Further, undersigned counsel for Respondents contacted ADFS regarding evidence originally collected by the medical examiner, who was an employee with ADFS, and submitted for testing. The undersigned counsel for Respondents was advised that a cursory review of ADFS records did not indicate that the evidence contained within the rape kit, including the fingernail clippings, was separated or that any of the items tested were repackaged separately thereafter.

The undersigned counsel for Respondents was further advised that is not the practice of ADFS to retain evidence.

5. Through email, the parties agreed the begin testing on the orifice swabs; and, pending those results, later develop a testing plan for any other items.

6. On July 27, 2021, undersigned counsel for Respondents was notified through email by Petitioner's counsel that Mr. Keel indicated testing had begun on the orifice swabs, examining an anal swab for cell debris recovery. Mr. Keel indicated there was sufficient sperm on both swabs for testing.

7. On July 29, 2021, Mr. Keel emailed undersigned counsel for Petitioner, attaching DNA quantification results. Mr. Keel also summarized those results by email. He stated that the vaginal swab epithelial cell and sperm DNA fraction quantifications included female and male DNA, and that he expected "good results from this specimen." He further stated that the anal swab results indicated mostly male DNA, which appeared to be "pretty degraded," and the anal swab sperm fraction "contacts little DNA but it all appears to be male and is not very degraded." Mr. Keel provided recommendations for next steps in testing those specimens, as well as sampling and preparing the reference specimens. Counsel for Petitioner asked Mr. Keel to proceed with his recommended next steps for further testing and provided his email to undersigned counsel for Respondent.

Respectfully submitted,

Steve Marshall (MAR083)  
*Attorney General*

By:

s/Audrey Jordan  
Audrey Jordan  
*Assistant Attorney General*

s/ Samuel Spital  
Samuel Spital  
NAACP Legal Defense &  
Educational Fund, Inc.  
40 Rector Street, 5th Floor  
New York, NY 10006-1738  
212.965.2200  
sspital@naacpldf.org

George H. Kendall  
Squire Patton Boggs (US) (LLP)  
1211 Avenue of the Americas, 26<sup>th</sup> Fl.  
New York, NY 10036  
212.872.9800  
george.kendall@squirepb.com

Counsel for Petitioner

Miriam Gohara  
Criminal Justice Advocacy Clinic  
Yale Law School  
127 Wall Street  
New Haven, CT 06511  
203.436.9167  
miriam.gohara@ylsclinics.org

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of August, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will provide notification of such filing to the following CM/ECF participants: **George Kendall; Jenay Nurse; Samuel Spital; and Miriam Gohara.**

s/Audrey Jordan  
Audrey Jordan  
*Assistant Attorney General*

#### **ADDRESS OF COUNSEL:**

Office of the Attorney General  
Capital Litigation Division  
501 Washington Avenue  
Montgomery, Alabama 36130  
Telephone: (334) 242-7300  
Facsimile: (334) 353-8400  
Email: Audrey.Jordan@AlabamaAG.gov